

Overview of Electronic Signature Law in the EU.

The Electronic Identification and Trust Services Regulation (910/2014/EC), commonly referred to as eIDAS, took effect on July 1, 2016, establishing a new legal structure for electronic identification, signatures, seals and documents throughout the EU. For the first time, there is a consistent legal framework and a single market for the recognition of [electronic signatures](#) and identities across all of the EU. This provides companies with a predictable legal environment in which to develop and expand the use of electronic signatures in the EU. When eIDAS took effect, it replaced the Electronic Signature Directive (1999/93/EC) as well automatically repealing, replacing or modifying any EU member state laws that were inconsistent with eIDAS.

Article 25 of the Regulation establishes a fundamental legal rule that all electronic signatures and verification services shall be admissible as evidence in legal proceedings. This includes electronic signatures, seals, time stamps, registered delivery services and certificates for website authentication.

Understanding eIDAS.

eIDAS (Regulation 910/2014) is a single, standardized regulation for all 28 member states, and is not subject to member state interpretation and modification.

The eIDAS Regulation has two sections. The first section deals with government-issued electronic identification and establishes a legal framework for all EU member states to mutually recognize each other's identification systems. It targets the public sector and requires member states to permit citizens from other member states to use their own electronic IDs to access online services. Private sector companies are not directly impacted by this part of the eIDAS Regulation.

The second section deals with electronic signatures, defining a legal framework for electronic signatures and seals. eIDAS offers incentives to follow EU rules, by granting greater legal certainty to services that follow eIDAS's rules, which are designed to improve the reliability of these services.

The eIDAS Regulation includes a complete definition of the service companies that provide electronic signatures, seals and stamps—called Trust Services. It also defines qualified and nonqualified Trust Services, including the requirements and supervision associated with them. The goal is to increase confidence in digital transactions by demonstrating their reliability and security, as well as their clear advantages over handwritten signatures.

There are three types of electronic signatures defined in eIDAS: basic electronic signatures, Advanced Electronic Signatures and Qualified Electronic Signatures.

Basic electronic signatures.

The eIDAS Regulation states that an electronic signature shall not be denied legal effect and admissibility as evidence in legal proceedings solely based on the fact that it is in electronic form.

Advanced Electronic Signatures.

Advanced Electronic Signatures (AdESs) allow unique identification and authentication of the signer of a document and enable the verification of the integrity of the signed agreement. This requirement is typically met with a type of electronic signature commonly known as a "digital signature." The authentication is accomplished through the issuance of a digital certificate by a Certificate Authority (CA). First, the signer obtains a certificate from their choice of CAs (there are hundreds of them around the world). Then, during the signing process, the signer's certificate is cryptographically bound to the document using the private key uniquely held by the signer. This encryption is also used as a tamper-evident seal. During the validation process, the reciprocal public key is extracted from the signature and used to both authenticate the signer's identity through trusted CAs and confirm that no changes were made to the document since it was signed. Although these certificates have existed for many years, the eIDAS Regulation enables the signer to use the latest technologies, like mobile devices and cloud services, to accomplish this.

Qualified Electronic Signatures.

The final type of signature defined in the eIDAS Regulation is the Qualified Electronic Signature (QES). While both Advanced and Qualified Electronic Signatures (QES) are uniquely linked to the signer, Qualified Electronic Signatures are based on qualified certificates. These certificates can only be issued by a CA that has been accredited and meets the requirements of eIDAS. Qualified certificates must also be stored on a qualified signature creation device such as a smart card, a USB token or a cloud-based hardware security module (HSM).

Qualified electronic signatures are the only type of signature that is mutually recognized as valid by all the EU member states. This mutual recognition is crucial for maintaining the single digital market across the entire EU.

Electronic seals.

eIDAS recognizes the validity of electronic seals. They are technologically similar to electronic signatures, but are only available to legal persons such as corporate entities. This raises the interesting prospect of minimizing the importance of the "authorized signer" for a particular entity. Instead, there is simply a seal that is associated with that entity and any use of that seal is presumed to be binding on that entity.

Summary.

eIDAS established a new legal structure for electronic identification, signatures, seals and documents throughout the EU—creating a single digital market. It's important for businesses to understand the eIDAS Regulation's unique electronic identification and strict supervisory measures that apply to Trust Services. Qualified Electronic Signatures should figure prominently in any EU operational plan.

Resources.

Thanks to signature laws and regulations around the world, electronic signatures are changing the way companies do business. Signature and approval processes that once took weeks can now be completed in days or even minutes. Plus, tracking and managing signed documents is far simpler. For more information about how to effectively incorporate [e-signatures](#) into your company's workflows, consult these resources:

- [Global Guide to Electronic Signature Law: Country-by-Country](#)
- [Developing an effective electronic signature policy](#)
- [Electronic and digital signature white paper](#)

For more information.

Solution details:

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